

**Written Statement of  
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**To the  
Committee on Ways and Means  
Worker and Family Support Subcommittee  
United States House of Representatives  
Leveling the Playing Field for Working Families: Challenges and Opportunities  
3/7/2019**

Chairman Davis, Ranking Member Walorski, and Members of the Committee:

My name is David Stacy, and I am the Government Affairs Director for the Human Rights Campaign, America's largest civil rights organization working to achieve lesbian, gay, bisexual, transgender, and queer (LGBTQ) equality. On behalf of our over 3 million members and supporters, I am honored to submit this statement into the record for this important hearing addressing the challenges facing working families. Today, I will specifically speak to the experience of LGBTQ people and their families including the impact of systemic discrimination and limited access to critical safety nets including paid leave and health care.

Systemic Discrimination, Absence of Uniform Explicit Protections

Despite recent advances in equality, LGBTQ individuals and families across the country still face discrimination throughout different aspects of daily life including employment, housing, and when seeking goods and services. Reports indicate that over 40% of all lesbian, gay, bisexual (LGB) employees are treated unfairly by their employer in hiring, pay, or promotion decisions.<sup>1</sup> Transgender employees report harassment and mistreatment at much higher rates—nearly 97% of transgender workers have experienced harassment or mistreatment at work as a result of their gender identity.<sup>2</sup> Between fiscal years 2014 and 2016, the number of private sector LGBTQ-based sex discrimination charges filed with the EEOC increased by 60%.<sup>3</sup>

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<sup>1</sup> The White House, FACT SHEET: Taking Action to Support LGBT Workplace Equality is Good For Business, (July 21, 2014), <http://www.whitehouse.gov/the-press-office/2014/07/21/fact-sheet-takingaction-support-lgbt-workplace-equality-good-business-0> (last accessed Feb. 27, 2017); Kurina Baksh, *Workplace Discrimination: The LGBT Workforce*, THE HUFFINGTON POST (June 22, 2016), [http://www.huffingtonpost.com/kurina-baksh/workplace-discrimination-\\_b\\_10606030.html](http://www.huffingtonpost.com/kurina-baksh/workplace-discrimination-_b_10606030.html), (last accessed Feb. 27, 2017).

<sup>2</sup> *Id.*; Kurina Baksh, *Workplace Discrimination: The LGBT Workforce*, THE HUFFINGTON POST (June 22, 2016), [http://www.huffingtonpost.com/kurina-baksh/workplace-discrimination-\\_b\\_10606030.html](http://www.huffingtonpost.com/kurina-baksh/workplace-discrimination-_b_10606030.html), (last accessed Feb. 27, 2017).

<sup>3</sup> *LGBT-Based Sex Discrimination Charges FY 2013–FY 2016*, U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION, [https://www.eeoc.gov/eeoc/statistics/enforcement/lgbt\\_sex\\_based.cfm](https://www.eeoc.gov/eeoc/statistics/enforcement/lgbt_sex_based.cfm) (in FY 2014, the number of

Currently, 29 states offer no explicit protections prohibiting employment discrimination on the basis of sexual orientation and gender identity. In the absence of uniform, nation-wide protections, many LGBTQ people who experience discrimination are left with little recourse. Discrimination in employment compounds the inequality many LGBTQ people experience in housing, education, and healthcare and undermines the individual and family economic security. LGBTQ couples raising children are also twice as likely to have household incomes near the poverty line compared to their non-LGBTQ peers -- and single LGBTQ people are three times more likely to live near the poverty threshold as their non-LGBTQ peers.

Passage of the Equality Act (H.R. 5, S. 788) would serve as a critical tool towards ending this discrimination nationwide by providing explicit, uniform protections across public life including employment, housing, education, jury service, credit, federal funding, and public places and spaces.

### Access to Paid Leave

Welcoming a new child, caring for a sick spouse or parent, or facing a serious illness can change - and strain - a family's bottom line. Access to uniform paid leave is essential to closing the gaps created by these major life events and helping families stay healthy. Due to the systemic discrimination discussed above, LGBTQ people facing these changes often find themselves having to choose between the caregiving or recovery time they deserve and the paycheck they need.

The United States lags far behind other industrialized nations when it comes to paid medical leave. We are also the only industrialized country to offer no paid leave to working adults (such as leave that would allow an employee to take care of an ill family member or to welcome a new child). In addition, while a lack of access to paid leave is a universal challenge in the US, LGBTQ individuals are uniquely impacted. According to a 2018 HRC survey of LGBTQ workers, fewer than half of respondents reported that their employer's policies cover new parents of all genders equally and only 49 percent say that employer policies are equally inclusive of the many ways families can welcome a child, including childbirth, adoption, or foster care.<sup>4</sup>

LGBTQ individuals who take time off face heightened challenges in accessing paid leave policies even where they do exist. We know that LGBTQ workers facing a major life event are often left with leave policies that are under-inclusive at best. Even for LGBTQ workers whose

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LGBT-based discrimination complaints received was 1,100; two years later--in FY 2016--the number climbed to 1,768.)

<sup>4</sup> Johnson, A; Lee, M.; Maxwell, M.; Miranda, L. (2018). *2018 U.S. LGBTQ Paid Leave Survey*, Washington, DC: Human Rights Campaign Foundation.

employers have a formal paid leave policy, one in five respondents to the 2018 survey reported that fears of discrimination could prevent them from requesting a leave if it would require disclosing their LGBTQ identity.<sup>5</sup> And without explicit federal laws protecting us from being fired simply because of who they are, LGBTQ workers also remain at risk of being fired if they are forced to come out when requesting leave.

Inclusive paid leave would help ensure that families will not have to risk their economic livelihood when they need to take time off to care for loved ones. Only 13 percent of the workforce receives paid family leave from their employer, and less than 40 percent have personal medical leave from a disability program provided through their workplace.<sup>6</sup> The Family and Medical Insurance Leave (FAMILY) Act would help address this problem by expanding access to both family and medical leave providing workers with up to 12 weeks of financial support during a family or medical leave from work. This would cover time taken following the birth or adoption of a child including time to recover from pregnancy and childbirth, as well as leave taken to care for a sick child, parent, spouse or domestic partner, recover from illness personally, or time taken for military caregiving and leave purposes.

### Access to Health Care

LGBTQ families face significant health disparities as a result of a lack of access to affordable, culturally competent care coupled with discrimination – both experienced and anticipated – at the hands of healthcare providers. LGBTQ people report some of the lowest rates of health insurance coverage of any population, particularly bisexual and transgender individuals. Low coverage rates threaten both the physical and financial health of LGBTQ families. Without coverage, many individuals will delay accessing critical care because of the inability to pay. Reports also show that a lack of insurance coverage directly results in increased medical related debt, which undermines a family's credit and overall financial security. Medicaid expansion under the Affordable Care Act (ACA) has played a key role in bridging this disparity for some of the most vulnerable members in our community, including those living with HIV/AIDS. Under the ACA's Medicaid Expansion, thousands of low-income people living with HIV have been able to obtain health insurance before becoming disabled by the virus, thereby ensuring that these individuals had access to lifesaving treatments. This critical change ensures that people living with HIV have access to lifesaving treatments necessary to live longer, healthier lives.

In addition to gaps in coverage, LGBTQ patients also report delaying accessing critical healthcare because of fear of discrimination. These fears are unfortunately well founded. Numerous surveys, studies, and reports have documented the widespread extent of the

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<sup>5</sup> *Supra* note 1.

<sup>6</sup> U.S. Bureau of Labor Statistics. (2016, September). National Compensation Survey: Employee Benefits in the United States, March 2016 (Tables 16 and 32). <http://www.bls.gov/ncs/ebs/benefits/2016/ebbl0059.pdf>

discrimination faced by LGBTQ individuals and their families in the health care system. One nationwide study found that 56 percent of lesbian, gay, and bisexual (LGB) respondents and 70 percent of transgender respondents reported experiencing discrimination by health care providers, including providers being physically rough or abusive, using harsh or abusive language, or refusing to touch them.<sup>7</sup> In the same study, 8 percent of LGB respondents and 27 percent of transgender respondents reported being refused necessary medical care outright.<sup>8</sup> Similarly, the 2015 National Transgender Discrimination Survey found that 33 percent of respondents had negative experiences when seeing a health care provider in the past year.<sup>9</sup> In addition to extending coverage for low income individuals and families, the ACA also includes strong statutory protections from discrimination on the basis of sex, which courts across the country have interpreted to include discrimination on the basis of sexual orientation and gender identity.

LGBTQ individuals and families live in every state and county across the nation. They reflect the breadth of diversity and lived experiences of the communities in which we live. However, these families too often face familiar challenges and barriers to success and financial stability. I urge Congress to act to bridge the healthcare and achievement gaps facing these families and to stand up for the inclusion of explicit nondiscrimination protections in our nation's civil rights laws.

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<sup>7</sup> Lambda Legal, *When Health Care Isn't Caring: Lambda Legal's Survey on Discrimination Against LGBT People and People Living with HIV*, 10-11 (2010), <http://www.lambdalegal.org/publications/when-health-care-isnt-caring>.

<sup>8</sup> *Id.*

<sup>9</sup> S.E. James, C. Brown, & I. Wilson, *2015 U.S. Transgender Survey*, 97 (National Center for Transgender Equality 2017).